

Child Fatality Review Committees are Public Health Authorities

On September 29, 2004, the office of the Georgia Attorney General issued an Official Opinion which determined that the Georgia Child Fatality Review Panel (GCFR) and its local Child Fatality Review Committees are public health authorities as defined by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). As such, GCFR and its committees are authorized by law to receive public health information, including reports of child abuse and neglect, in order to carry out their statutory purpose. The responsibilities of committees include: gathering statistics on child deaths; investigating the cause and circumstances of preventable deaths of children birth through 17 years old; fostering interagency cooperation; generating and identifying legislative, policy and practice changes to prevent child deaths; and identifying services needed by surviving family members particularly if there are remaining siblings.

Public Law 104-191: Health Insurance Portability and Accountability Act of 1996; SEC. 1178. Effect on State Law

(a) (2) (B) (b): *PUBLIC HEALTH.--Nothing in this part shall be construed to invalidate or limit the authority, power, or procedures established under any law providing for the reporting of disease or injury, child abuse, birth, or death, public health surveillance, or public health investigation or intervention.*

DISCLOSURES FOR PUBLIC HEALTH ACTIVITIES

[45 CFR 164.512(b)]

Background

The HIPAA Privacy Rule recognizes the legitimate need for public health authorities and others responsible for ensuring public health and safety to have access to protected health information to carry out their public health mission. The Rule also recognizes that public health reports made by covered entities are an important means of identifying threats to the health and safety of the public at large, as well as individuals. Accordingly, the Rule permits covered entities to disclose protected health information without authorization for specified public health purposes.

How the Rule Works

General Public Health Activities. The Privacy Rule permits covered entities to disclose protected health information, without authorization, to public health authorities who are legally authorized to receive such reports for the purpose of preventing or controlling disease, injury, or

disability. This would include, for example, the reporting of a disease or injury; reporting vital events, such as births or deaths; and conducting public health surveillance, investigations, or interventions. See 45 CFR 164.512(b)(1)(i). Also, covered entities may, at the direction of a public health authority, disclose protected health information to a foreign government agency that is acting in collaboration with a public health authority. See 45 CFR 164.512(b)(1)(i). Covered entities who are also a public health authority may use, as well as disclose, protected health information for these public health purposes. See 45 CFR 164.512(b)(2).

A “public health authority” is an agency or authority of the United States government, a State, a territory, a political subdivision of a State or territory, or Indian tribe that is responsible for public health matters as part of its official mandate, as well as a person or entity acting under a grant of authority from, or under a contract with, a public health agency. See 45 CFR 164.501. Examples of a public health authority include State and local health departments, the Food and Drug Administration (FDA), the Centers for Disease Control and Prevention, and the Occupational Safety and Health Administration (OSHA).

Generally, covered entities are required reasonably to limit the protected health information disclosed for public health purposes to the minimum amount necessary to accomplish the public health purpose. However, covered entities are not required to make a minimum necessary determination for public health disclosures that are made pursuant to an individual’s authorization, or for disclosures that are required by other law. See 45 CFR 164.502(b). For disclosures to a public health authority, covered entities may reasonably rely on a minimum necessary determination made by the public health authority in requesting the protected health information. See 45 CFR 164.514(d)(3)(iii)(A). For routine and recurring public health disclosures, covered entities may develop standard protocols, as part of their minimum necessary policies and procedures, which address the types and amount of protected health information that may be disclosed for such purposes. See 45 CFR 164.514(d)(3)(i).

Other Public Health Activities. The Privacy Rule recognizes the important role that persons or entities other than public health authorities play in certain essential public health activities. Accordingly, the Rule permits covered entities to disclose protected health information, without authorization, to such persons or entities for the public health activities discussed below.

- Child abuse or neglect. Covered entities may disclose protected health information to report known or suspected child abuse or neglect, if the report is made to a public health authority or other appropriate government authority that is authorized by law to receive such reports. For instance, the social services department of a local government might have legal authority to receive reports of child abuse or neglect, in which case, the Privacy Rule would permit a covered entity to report such cases to that authority without obtaining individual authorization. Likewise, a covered entity could report such cases to the police department when the police department is authorized by law to receive such reports. See 45 CFR 164.512(b)(1)(ii). See also 45 CFR 512(c) for information regarding disclosures about adult victims of abuse, neglect, or domestic violence.

Because Georgia Child Fatality Review Committees are considered public health authorities:

Requests for medical information to health care facilities by Child Fatality Review Committees do not need to be in the form of a subpoena, and

Child Fatality Review Committees do not need a signed release of information from the deceased child's parents or legal guardians.

Committees will submit their requests for a child's medical history in writing to the medical records department of the health care facility that treated the child. If necessary, verification of requests by the committees can be obtained through the main office of GCFR by calling one of the program managers, Tamara Hurst or Arleymah Raheem at 770-528-3988. For more information about Georgia Child Fatality Review Panel, please visit their website at www.gacfr.dhr.georgia.gov.